IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Bail Appl..No. 6528 of 2007

(CRIME NO. 230/2007 OF KEEZHUVAYIPOOR POLICE STATION)

PETITIONER/SOLE ACCUSED

ANOOP JOSEPH, AGED 24 YEARS,
S/O.THAMBI JOSEPH, KAVUNKAL HOUSE,
ANNICADU, MALLAPALLY, PATHANAMTHITTA.

BY ADV. SRI.ARUN.B.VARGHESE

RESPONDENTS: COMPLAINANT/STATE

1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
KEEZHUVAYIPOOR POLICE STATION,
PATHANAMTHITTA DISTRICT.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6528 of 2007

Dated this the 29th day of October 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 376 I.P.C. The crux of the allegations against the petitioner is that he has sexual intercourse with the de facto complainant/prosecutrix on 27/5/2007. This allegedly was without her consent. She went to Delhi where he is employed. He refused to marry her. She came back and filed a private complaint. Crime can been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and that the allegations are raised vexatiously because of the refusal on the part of the petitioner to marry the de facto complainant/victim. On account of that animosity false allegations are being raised, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the said prayer. I am satisfied, in the facts and circumstances of this case that the petitioner can be granted anticipatory bail subject to appropriate terms and conditions.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 05/11/2007. He shall be released on regular bail on condition that he executes a bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 5 p.m on 06/11/2007 and 07/11/2007. During this period of time, the investigating officer shall be at liberty to question the petitioner and also to get the potency test conducted. Thereafter the petitioner shall so appear on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(iv) If he were arrested prior to 05/11/2007, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 05/11/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007